

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

United States of America,

Plaintiff,

v.

Richard Arellano-Mendoza,

Defendant.

No. 2:23-CR-00205-KJM

ORDER

Defendant Richard Arellano-Mendoza brings two motions. One, he seeks to dismiss count four of his indictment, which charges him with violating 18 U.S.C. § 111(b) because he argues § 111(b) violates his due process rights under the Fifth Amendment. *See generally* ECF No. 32. Two, he also moves to strike count four of the indictment as a predicate offense for count six because he claims § 111(b) is not categorically a crime of violence and cannot serve as a predicate crime for the count six charge based on 18 U.S.C. § 924(c). *See generally* ECF No. 33. The government opposes both motions. *See* ECF Nos. 35–36. On January 14, 2025, the court heard oral argument on both motions. Emily Sauvageau appeared for the government. Megan Hopkins and Christina Sinha appeared for Arellano-Mendoza. *See* Mins. Mot. Hr’g (Jan. 14, 2025), ECF No. 37.

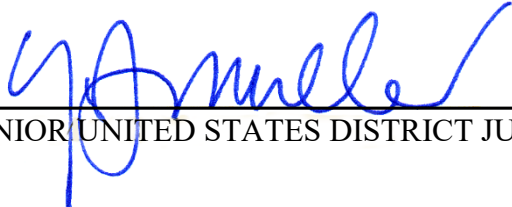
The court **denies** Arellano-Mendoza’s motion to dismiss as it is foreclosed by precedent. *See United States v. Feola*, 420 U.S. 671 (1975); *United States v. Mobley*, 803 F.3d 1105 (9th Cir.

1 2015). And, as signaled at hearing, agreeing with another judge of this court, the court also
2 **denies** Arellano-Mendoza's motion to strike. *See United States v. Broadbent*, No: 2:19-CR-
3 00155 DJC, 2023 WL 6963438 (E.D. Cal. Oct. 20, 2023). The court recognizes Arellano-
4 Mendoza's clarification, in one respect, that he is in fact making an overbreadth and not a
5 vagueness challenge, but the court would still arrive at the same conclusion given that Arellano-
6 Mendoza's argument is foreclosed by the precedent of this Circuit. *See United States v. Juvenile*
7 *Female*, 566 F.3d 943 (9th Cir. 2009). The court thus declines the invitation to "make history" as
8 Arellano-Mendoza's counsel urges.

9 This order resolves ECF Nos. 32, 33.

10 IT IS SO ORDERED.

11 DATED: January 17, 2025.



SENIOR UNITED STATES DISTRICT JUDGE